

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ROBERT TAYLOR**

PLAINTIFF

v.

**THE COMMONWEALTH OF  
PENNSYLVANIA et al.,**

DEFENDANT

**CASE NO: 2:17-cv-03369**

**CIVIL ACTION NO.17-3369**

**MOTION TO VACATE**

**JURISDICTION**

DEC 27 2018  
By KATE M. [Signature] Clerk

**1. JURISDICTION HAS BEEN ESTABLISHED IN THIS CASE.**

**THIS IS PURSUANT TO THE FEDERAL RULES OF CIVIL  
PROCEDURE RULE 60.(B)(1),(6) RELIEF FROM A  
JUDGMENT OR ORDER, AND RULE 7.(B) (1) MOTIONS.**

2. Plaintiff, Movant Has Brought This Motion To Vacate Order To Dismiss His Civil Action By THE COURT. Citing **FOMAN v. DAVIS, 371 U.S. 178, 181 (1962)**. Plaintiff, Movant's Motion For 42 U.S.C. s. 1983 Claim Was Dismissed In Its Entirety Summarily For Foregoing Reasons That Plaintiff, Movant Did Not File A Response To Defendants Motion To Dismiss And For Failure To State A Claim For Relief. Thus Was Delivered Throughout THE COURTS Opinion, Inter Alia.

**FACTS AND GROUNDS**

3. Plaintiff, Movant Brings This Motion On The Grounds That His 42 U.S.C. s. 1983 Claim Was Filed By Way Of A Motion And Defendants Motion Was In Response To it. Plaintiffs

s.1983 Claim Exhibited Attachments In Support Of His Claim. In opposite All But One Of Defendants Responded With This Requirement, As Plaintiff Was Not Required To Respond To A Respond At This Point The Court Should Have Ordered For Discovery Of Evidence. In Accord with Federal Rules Of Civil Procedure, To Further Bring Forth Material Facts To Uphold The Claim, And To Suffice Any Other Inquiries THE COURT May Have Had. Also To See If There's Any Merit To Defendants. Instead Plaintiff , Movant Believes THE COURT Advocated For Defendants By Not Proceeding With This Procedure. Plaintiff, Movant Believes THE COURT Erred.

4. It Has Been Ruled That A Complaint Filing is Not Subject To Dismissal On The Ground That There Is A Failure To State A Claim Upon Which Relief Can Be Granted. Unless it Appears Beyond Doubt That The Plaintiff Can Prove No Set Of Facts In Support Of His Claim Which Would Entitle Him To Relief. CITING: **CONLEY v. GIBSON, 355 U.S. 41,45-46 78 S.CT. 99,101, 2 L.ED. 2D 80.**

5. Plaintiff, Movant Further Provides Grounds With Factual Evidence To Merit His Claim.THE COURT Granted Motion to Dismiss(Doc No.18) To The Commonwealth Court And Its Judge, For Various reasons The Plaintiff, Movant Will Address. Defendants Give Claim To Plaintiffs September 22, 2009 Arrest Commonwealth v. Taylor Doc.No. CP-51-Cr-009569-2010 For Various Firearm Offenses . As Already Contended Plaintiff , Movant States He Was Never Formally Charged. At The Time Of The Arrest Plaintiff Possessed A Valid Permit To Carry Firearms See (EXHIBIT (A) Firearms License). Plaintiff Was Also Undergoing a Commonwealth Court Civil Administrative hearing Proceeding In recognition Of Firearms Rights In Which He Was Deemed Eligible by The State But Was Awaiting A

Final Judgment. Plaintiff Avers This Arrest Was To Interfere And Strip Him Of His Rights Prior To. These Facts Present Grounds Of Extraordinary Circumstances.

6. The Proceeding Regarding Arrest Went Forth , Which Plaintiff Avers Was Flagrantly and Patently Unconstitutional. After A Trial Plaintiff Was Ruled Against. Two Timely Post Verdict Motions Followed On Behalf Of Plaintiff Resulting In Extraordinary Relief Being Granted Dismissing Alleged Charges. A City Ordinance Violation For (VUFA) M1 Was Imposed For A Term Of 11 in A Half To 23 Months Which Plaintiff Completed See (EXHIBIT (B) PRISON STATUS SHEET).

7. Plaintiff Did Not Have Probation as Defendants were Aware Of Yet Fabricated This To False Arrest And Imprison Plaintiff On The Date Of November 16, 2015 In Efforts To Make Him An Unlawful Citizen and Further Violate His Rights.

8. Plaintiffs Contention That Judge Palumbo Is in Clear Absence Of All Jurisdiction. In Connection With Commonwealth Court (CJC) Court System Have Conspired , Provided, And Fabricated Uncertified Court Information Regarding Plaintiff. This Has Been Supported With Aforementioned Facts In Paragraphs 5. And 6. Defendants Further Falsified Information Of Mental Health To Keep Plaintiff Detained, as Their Records Have Plaintiff Transferred To Norristown Mental Health Institution During Imprisonment Period But Plaintiff Spent his Entire Duration Of Detention at The (CFCF) Facility Citing: **PULLIAM v. ALLEN, 466 U.S. 522.** HELD judicial Immunity Is Not A Bar To Prospective, Injunctive Relief Against A Judicial Officer. Judicial Immunity Does Not Extend To Injunctive , Equitable Relief. These Facts Inter Alia As Well As All Else That Has Been Brought Against Defendants. Therefore Violating The Fourth, Eighth, And Fourteenth Amendment Rights Of

Plaintiff And His 42 U.S.C. s. 1983 Claim Is Entitlement To Vacate Dismissal And Grant His Civil Action.

9. As For The Commonwealth of Pennsylvania, The Commonwealth Court (CJC) Motion To Dismiss Being granted For Reason That Action cannot Be Brought Against The State Claiming Eleventh Amendment Immunity. Plaintiff, movant Contends on grounds: First In Violation Of His Rights In Specifically The Fourth, Eighth, And Fourteenth Amendments To THE UNITED STATES CONSTITUTION, Plaintiff, Movants 42 U.S.C. s.1983 Claim Seeks Injunctive And Equitable Relief Against The State Not Monetary Damages. Therefore The Eleventh Amendment Claim Does Not Apply. Second Injunctive, Equity Actions Against State And State Officials Bars Eleventh Amendment As A Defense. Set Forth In **EX PARTE YOUNG 209,U.S. 123 (1908)**.

10. THE COURT Granted Motion To Dismiss (Doc. No. 19) For Defender Association And Public Defender Chris Angelo. Plaintiff, Movant Contends On Grounds: THE COURT Overlooked The fact That Immediately After Being Detained Plaintiff Verbally Informed Defender association Not to Represent Him. After later Finding That This Had Not Been Adhered To. Plaintiff, movant gave Formal Written Termination On Date January 23, 2017. Public defender Disregarded And Continued To pose as Representative For Plaintiff. Whereby Removing Traditional Functions Of Counsel, Thus Becoming A State actor under Color Of State Law. Citing: **TOWER v. GLOVER, 467 U.S. 914 (1984)**. Plaintiff Was Locked Away In Confinement, And Clearly Could Not have Been There At The Time Of Conspired Agreements, But The Constitutional And Civil Violations That Took Place Could Not Have Been Done In The Manner Carried out Unless The Defendants Worked In Concert To Do So.

By The Actions Of The Defender Association And Its Public Defender Plaintiffs Fourth And Fourteenth Rights were Violated as Well Aforementioned 42 U.S.C. s. 1983 Claim. And Met State Claims Of Obstruction, Falsifying information, Providing False information, And all Other Counts Linked By Conspiracy.

11. The Monell Claim Plaintiff, Movant Brought Against The City Of Philadelphia Is To The City Of Philadelphia (Municipality) Itself To Be Held accountable For the Deprivation of rights And Inappropriate Actions Of Its Agencies, And Subordinates. THE COURT Granted Motion To Dismiss (Doc. No. 20) To Defendants The City Of Philadelphia et al., Plaintiff, Movant Contends On Grounds: Officer Obrien Made An Unlawful Arrest On Plaintiff . As Already Stated Plaintiff Violated No Laws Neither Did He Have Probation. See Paragraphs 5. And 6. Of This Motion. Therefore Violating The Fourth And Fourteenth Amendment Rights Of Plaintiff, And 42 U.S.C. s. 1983 Claim. Plaintiffs Property Was Taken By Defendant He Was Cuffed, Harassed And Held in Police Car For Hours. The Defendant Incurred Counts Of Kidnapping, robbery, Defamation, Invasion Of Privacy, False Light Privacy, Intentional Infliction Of Emotional Distress, And Torture.

12. THE COURT Took Notice Of Public Records And Documents Outside The Pleadings. These records Were Unfactual And Heavily Favored The State As It Was There Records. When discovery Should Have Been In Order under The federal Rules Of Civil Procedure.

13. THE COURT Granted Motion To Dismiss (Doc. No. 20) To Defendants The Philadelphia Prison System, (CFCH), The Philadelphia Sheriffs Office, Warden Gerald May, And Official Lebesco. Plaintiff, Movant Contends On Grounds: Defendant Philadelphia Prison System (CFCH) Held Plaintiff By False Imprisonment, Uncharged Through Fabricated Documents



And In Violation Of His Due Process, In Conspiracy With The Commonwealth Court. Plaintiff was Alleged To Have Been Deemed Mentally Incompetent And Transferred To A Mental Institution, But Was Actually Being Held At (CFCF) The Entire Time. Records Clearly Show This To Be True. This Was Also Done To Avoid Having To Release Plaintiff Under Pre Detainee Due Process. Pennsylvania Law Does Not Authorize The Holding Of Prisoners Without Being Charged. The Sheriffs Office Participated By Taking Plaintiff To The Commonwealth Court Within Specific Number Of Days To Meet Requirements Of Being Brought In, So As To Restart Incarceration Period, As Well As The Civil Violations Plaintiff Suffered In Sheriffs Custody While Held In Commonwealth Court Aforementioned In 42 U.S.C. s. 1983 Claim.

14. Thou THE COURT Seems To Acknowledge Conditions Of Confinement That Plaintiff, Movant Brought Forth, THE COURT Disagrees As To The Severity Of The Claim inter Alia.

15. Plaintiffs mail tampering, And Denial Of Access To The Court. Stated A Cause For Relief By The First And Fourteenth Amendments To The UNITED STATES CONSTITUTION, And plaintiffs 42 U.S.C. s. 1983 Claim On Grounds: The Actual Injury Sustained Was By Having To Remained Falsely Imprisoned Under The Conditions By Which plaintiff Was Held Under. Here THE COURT Overlooks The Fact That Plaintiffs Appeal Regarding His 28 U.S.C. s. 2241 Filing, And The THIRD CIRCUIT COURTS Response To it Was Confiscated By The (CFCF), As Well As His Filing Fee. At That Time The Rule Was not In Place To Transfer Appeals To The District Court. Due To Plaintiff Directly Sending Appeal To The THIRD CIRCUIT Unknowingly, it Was sent Back With Instructions By The CIRCUIT COURT BUT Plaintiff Never received This Citing: **HOUGHTON v. SHAFER, 392 U.S. 639, 20 L.ED. 2D. 1319 88**

**S.C.T. 2119 (1968).** See Paragraphs 24-35 Of Plaintiffs 42 U.S.C. s. 1983 Claim And Grievances On This Incident. His Appeal And Filing Fee Was Taken By (CFCF) Barring His Appeal THE COURT Mistakenly Overlooked This Fact.

16. Plaintiffs Overcrowding And Conditions Of Confinement Stated a Cause For Relief By The Fourth, Eighth, And Fourteenth Amendments To THE UNITED STATES CONSTITUTION, And Plaintiffs 42 U.S.C. s. 1983 Claim On Grounds: As For The Triple Celling, And Cold Air Conditions Suffered By Plaintiff That THE COURT Agrees Met Standards Of Constitutional Violations Relief Should Be Granted Accordingly. The Strip Searches That Plaintiff Suffered, Underwent Were Unjustified And Unrelated To Legitimate Safety Concerns. Plaintiff Was Routinely Strip Searched Throughout each Month On Housing Block Randomly, With No Infractions Precipitating From Him or His Cellmates. Plaintiff As Well As Entire Housing Block Would Be Strip Searched even If Someone Else Had Allegedly Done Something Unrelated To Plaintiff Whatsoever. Plaintiff Addresses This Practice In 42 U.S.C. s. 1983 Claim (EXHIBIT (B) GRIEVANCE DATED 10-25-2016).

17. PLAINTIFFS Pepper Spray Incident At (CFCF) State A Cause For Relief By The Eighth, And Fourteenth Amendments To The UNITED STATES CONSTITUTION, AND plaintiffs 42 U.S.C. s. 1983 Claim On Grounds: Plaintiff Was Not In a Physical Altercation With a Inmate Or Official When Defendants Confronted him To Warrant Plaintiff To Be Chemically Sprayed. In Fact Plaintiff Was Ordered From His Bunk He Complied, Then Was Ordered To Strip Down He Complied, And Then Sprayed Without Provocation. Plaintiff Was cuffed And Taunted By Supervising Sgt. Defendant as To Now Knowing The Effect Of The Weapon. After Being Held In Medical In Handcuffs For approx. 45 mins. With Painfully Burning Eyes

As Plaintiff Had An Allergic Reaction To The Chemical Spray. Plaintiff Was Told He Would Not Get Decontamination Treatment, And Was Taken To The Confinement Block Untreated Still suffering From injuries. See 42 U.S.C. s. Claim (EXHIBIT (D) Grievance Dated 7-7-2017). Amounting To Counts Of Assault, Battery, Intentional Infliction Of Emotional Distress, And Torture. This Clearly Establishes Culpability 1. The Disregard, And Unreasonableness Before The act, 2. The Purpose Of Wanting To Inflict injury as Well As Carrying It Out. 3. The Maliciousness That Took Place Afterwards Of Cruel And Unusual Punishment Not Allowing Plaintiff To Receive Treatment Care. THE COURT Overlooked These Facts.

18. The Eighth, And Fourteenth Amendment Violations Are widespread Throughout The (CFCF), Philadelphia Prison System. Evident By Records Of Incidences, And Cases Brought Before THIS COURT.

19. Plaintiffs Religious And Discrimination Claims State A Cause For Relief. By The First And Fourteenth Amendments To The UNITED STATES CONSTITUTION, And Plaintiffs 42 U.S.C. s.1983 Claim On grounds: This Is an Ongoing Widespread Practice At (CFCF) Under The Supervision Of Warden Gerald may. By Being An Agency Unit And Official Of The City Of Philadelphia Therefore Come Under The Monell Claim. Plaintiffs Religious Food Dietary Is A Must Citing: **CRUZ v. BETO, SUPRA. ; US. EX REL. WOLFISH v. LEVY, S.D.N.Y. 1977, 439 F.SUPP. 114 AFFIRMED 573 F.2D 118.** Plaintiffs Dietary needs were Never Met At (CFCF), This Was The Case For All Inmates Of Muslim Faith. During His Detention The Food Plaintiff Was Given He could Only Eat Parts Or None At All Due To It Not Being Of His Religious Diet, leaving Plaintiff Malnourished With Severe Weight Loss. Plaintiff Claims That The (CFCF) Prevented Him From Practicing Islam. THE COURT Deemed That Plaintiff



Did Establish First, And Fourteenth Amendment Constitution Violation Claims (Doc. No.20. (4)a. ii). Monetary, and Injunctive Relief Should Be Granted Accordingly.

20. Plaintiffs Medical And Dietary Deprivations Claim State a Cause For Relief By The Eighth, And Fourteenth Amendments To The UNITED STATES CONSTITUTION, And Plaintiffs 42 U.S.C. s. 1983 Claim On Grounds: The Three Sets Of Injuries Where THE COURT Decided Against Plaintiff.(Doc. No.20 (5) a.) Here The Plaintiff Did Not Start Receiving Health Shakes, or asthma inhaler Until After A Year Of Being Incarcerated, Plaintiff was Forced To suffer In His Condition. And even After Finally Providing Plaintiff With These Needs (CFCF) medical Abruptly Stopped Issuing to Plaintiff. Plaintiff Only Received it For a Matter Of Months Approx. Two months, While Plaintiff Had Been Incarcerated For Nearly Two Years. Thirdly THE COURT Overlooked The fact That Regarding Pepper Spray Incident Plaintiff Did State That Prison officials Failed To Treat him Completely. See 42 U.S.C. s. Claim (EXHIBIT (D) Greivance Dated 7-7-2017). This Is An Ongoing Practice Of The Philadelphia Prison System Which is a Arm of The City Of Philadelphia. The Suffering Plaintiff Endured Amounted To Intentional infliction Of emotional Distress, Intentional Infliction of Starvation, Medical Neglect, Torture, And Aforementioned Constitutional violations.

21. Plaintiff, Movants Motion For Default Against The City Of Philadelphia et al., (Doc. No.16.) This Was Brought Due To Plaintiff, Movants Calculations That Defendant Had Responded After 21 Days Elapsed. But Since Plaintiff Movant Does Not Know Exactly When THE COURT Started Count Of Days Plaintiff, Movant Concedes To THE COURTS Decision On This Matter.

22. Plaintiffs 42 U.S.C. s. 1983 Claim, And Malicious Prosecution Under The Laws Of The Commonwealth Of Pennsylvania. Against Defendant Commonwealth District Attorneys Office Should Be Granted. The Defendant did not Respond By Motion. Plaintiff, Movant Is Entitled To Monetary Damages, And Injunctive Relief as To Enjoin Any Further Prosecution.

WHEREFORE, Plaintiff, movant Moves For THE COURT To Grant The Following Relief:

- a. Vacate Dismissal Order
- b. Accordingly Grant Plaintiffs 42 U.S.C. s. 1983 Amended Complaint

RESPECTFULLY SUBMITTED

12-26-18

Robert Taylor

TO THE COURT:

DATE

ROBERT TAYLOR

P.O.BOX 12524

PHILADELPHIA, PA, 19151

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ROBERT TAYLOR**

**CASE NO: 2:17-cv-03369**

**Plaintiff**

**CIVIL ACTION NO. 17-3369**

**v.**

**THE COMMONWEALTH OF  
PENNSYLVANIA et al.,**

**Defendant**

**ORDER**

AND NOW This \_\_\_\_\_ Of \_\_\_\_\_, 2018,  
Plaintiffs Motion To Vacate Dismissal, And Plaintiff, Movants 42 U.S.C. s. 1983 Amended  
Complaint Relief Is Granted.

**BY THE COURT,**

\_\_\_\_\_

J.

## VERIFICATION

IN COMPLIANCE PURSUANT TO 28 U.S.C. s 1746-UNSWORN  
DECLARATIONS UNDER PENALTY OF PERJURY.

I Verify That Facts Set Forth Are True And Correct To The Best Of  
Personal Knowledge, Information And Belief. "I Declare Or Verify  
Under Penalty Of Perjury That The Foregoing Document Is True And  
Correct."

Executed On

12-26-18

DATE

Robert Taylor

ROBERT TAYLOR

CERTIFICATE

IN COMPLIANCE PURSUANT TO 28 U.S.C. § 1746 – UNSWORN  
DECLARATIONS UNDER PENALTY OF PERJURY.

I certify that facts set forth are true and correct to the best of personal knowledge, information and belief. "I declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on

12-26-18

DATE

Robert Taylor

ROBERT TAYLOR



# EXHIBIT (A)

**CONCEALED WEAPON OR FIREARM LICENSE  
STATE OF FLORIDA**

TAYLOR ROBERT A  
6139 ARCH ST  
PHILADELPHIA, PA 19139

DATE OF BIRTH SEX  
ISSUE NUMBER  
W 2254869 06/23/08 05/06/13

The above named individual is licensed by the Department  
of Agriculture & Consumer Services, Division of Licensing  
in accordance with Chapter 790.06, Florida Statutes.

*Charles H. Bronson*  
CHARLES H. BRONSON  
COMMISSIONER

**Direct Inquiries To:**

Florida Department of Agriculture & Consumer Services  
Division of Licensing, P.O. Box 6687  
Tallahassee, FL 32314-6687  
850/245-5691

Some Personal Information On License Has Been Omitted To Comply With The Courts Requirements Regarding Privacy Of Identity.

# EXHIBIT (B)

## PAROLE DATA SHEET

Inmate's Name

Robert A. Taha

PP #:

946529

Inst #:

120224L

You have recently been ordered by the Court to serve a sentence in the Philadelphia Prison System. Your sentence can either have a minimum and maximum term, or be for a flat term.

Your specific sentence for bill and term #

(M1) ↔ CP 10200055692010

is:

11 1/2 - 23

Minimum date: 12-24-12

Maximum date: 12-24-13

Earliest possible ET/GT date: 8-25-12

Special stipulations: N/A

There are three ways to be released before your maximum date. They are:

1. **EARLY PAROLE:** This is when the Judge releases you at any time before your minimum sentence. Generally, you need to show that you have earned this privilege through your behavior or special circumstances.
2. **EARNED TIME/GOOD TIME:** This is when you get credit off your minimum sentence for good behavior and participation in work assignments and programs. The most credit you can use is two days off per week in jail. You can also lose credits for disciplinary infractions.
3. **REGULAR PAROLE:** This is when the Judge releases you sometime between your minimum date and your maximum date.

**\*\*WITHIN 72 HOURS OF PAROLE BY THE JUDGE, YOU MUST REPORT TO THE INTAKE UNIT OF THE PHILADELPHIA ADULT PROBATION DEPARTMENT, ROOM B-01 AT THE CRIMINAL JUSTICE CENTER, 1301 FILBERT STREET (215-683-7567).**

THE BETTER YOUR ADJUSTMENT AND YOUR EFFORTS TO MAKE POSITIVE CHANGES, THE BETTER YOUR CHANCES OF GOING HOME EARLY!!!

A progress report to accompany an Early Parole petition will be prepared by your social worker if requested by the Defender Association of Philadelphia. You should write to the Alternative Sentencing Unit at the Defenders Association after the disposition of all your open matters. Review the Defender Association pamphlet in the Law Clinic. Your social worker will meet with you at this time to review parole procedures and your eligibility for parole consideration.

Your specific ~~EARLY PAROLE REVIEW~~ DATE is:

Adjustment Report

11-26-12

Be sure to contact me, or your current Social Worker, at this date to start this review.

I have read, or had read to me, the information above and understand my responsibilities about Parole.

Signature of Inmate

Date

Signature of Social Worker



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING DOCUMENT  
WAS SERVED BY CERTIFIED MAIL THIS DATE OF 12-26-18 TO:

NAME: MARTHA GALE

ADDRESS: ADMINISTRATIVE OFFICE OF PA COURTS  
1515 MARKET STREET SUITE 1414  
PHILADELPHIA, PA, 19102

FILED  
DEC 27 2018  
KATE BANKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

Robert Layla

SIGNATURE

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING DOCUMENT  
WAS SERVED BY CERTIFIED MAIL THIS DATE OF 12-26-18 TO:

NAME: ANDREW PomAGER

ADDRESS: CITY OF PHILADELPHIA, LAW DEPARTMENT  
1515 ARCH STREET, 14TH Floor  
PHILADELPHIA, PA, 19102

Robert Taylor

SIGNATURE

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING DOCUMENT  
WAS SERVED BY CERTIFIED MAIL THIS DATE OF 12-26-18 TO:

NAME: DENNIS T. KELLY

ADDRESS: PHILADELPHIA DEFENDERS ASSOCIATION  
1441 SAMSON STREET  
PHILADELPHIA, PA, 19102

Robert J. Gayle

SIGNATURE

P.O. BOX 12524  
PHILADELPHIA, PA 19151



1005

19106-1729

U.S. POSTAGE PAID  
PM 1-Day  
PHILADELPHIA, PA  
19104  
DEC 26, 18  
AMOUNT

**\$10.15**  
R2305K135490-24

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

601 MARKET STREET

PHILADELPHIA, PA 19106-9865